



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2011-0344; FRL-9904-39-OAR]

RIN 2060-AR66

**National Emissions Standards for Hazardous Air Pollutants from
Secondary Lead Smelting**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule amendments.

SUMMARY: The Environmental Protection Agency (EPA) is proposing amendments to a final rule that revised national emission standards for hazardous air pollutants for existing and new secondary lead smelters. The final rule was published on January 5, 2012. This action proposes amendments to clarify certain regulatory text related to compliance dates. Additionally, we are proposing amendments to clarify certain provisions in the 2012 final rule relating to monitoring of negative pressure in total enclosures. This action also proposes corrections of typographical errors in a table listing congeners of dioxins and furans and testing requirements for total hydrocarbons.

DATES: Comments. Comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], or 30 days after date of public hearing, if one is requested. If anyone contacts the EPA requesting a public hearing by [INSERT 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], the EPA will announce

the details as to when the hearing will be held in a separate Federal Register notice.

Public Hearing. The EPA will hold a public hearing on this proposed rule if requested. Requests for a hearing must be made by [INSERT 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Contact Nathan Topham at topham.nathan@epa.gov or (919) 541-0483 by [INSERT 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to request a public hearing. If a hearing is requested, the EPA will announce the details, including specific dates, times, addresses and contact information for the hearing, in a separate Federal Register notice.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2011-0344, by one of the following methods:

- http://www.regulations.gov: Follow the online instructions for submitting comments.
- Email: a-and-r-docket@epa.gov, Attention Docket ID Number EPA-HQ-OAR-2011-0344.
- Fax: (202) 566-9744, Attention Docket ID Number EPA-HQ-OAR-2011-0344.
- Mail: U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID Number EPA-HQ-OAR-2011-0344, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include a total of two copies.

- Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave., NW, Washington, DC 20004, Attention Docket ID Number EPA-HQ-OAR-2011-0344. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA-HQ-OAR-2011-0344. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/dockets>.

Docket. The EPA has established a docket for this proposed action under Docket ID Number EPA-HQ-OAR-2011-0344. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet, and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>, or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION: For questions about this proposed action, contact Mr. Nathan Topham, Metals and Inorganic Chemicals Group, Sector Policies and Programs Division (D243-02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone

number: (919) 541-0483; fax number: (919) 541-3207; and email
address: topham.nathan@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this Document. The following outline is provided
to aid in locating information in the preamble.

I. General Information

- A. Does this action apply to me?
- B. What should I consider as I prepare my comments for the EPA?
- C. What is the background for the proposed amendments?

II. Direct Final Rule

III. Statutory and Executive Order Reviews

I. General Information

A. Does this action apply to me?

The regulated industrial source category that is the subject of this proposal is listed in Table 1 of this preamble. Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding the entities likely to be affected by this proposed action. These standards, once finalized, will be directly applicable to affected sources. Federal, state, local and tribal government entities are not affected by this proposed action. As defined in the source category listing report published by the EPA in 1992, the Secondary Lead Smelting source category is defined as any facility at which lead-bearing scrap materials (including, but not limited to lead acid batteries) are recycled by smelting into elemental lead or lead alloys.¹

Table 1. NESHAP and Industrial Source Categories Affected By This Proposed Action

¹ USEPA. Documentation for Developing the Initial Source Category List - Final Report, USEPA/OAQPS, EPA-450/3-91-030, July 1992.

Source Category	NESHAP	NAICS ¹ code	MACT ² code
Secondary Lead Smelting	Secondary Lead Smelting	331492	0205

¹ North American Industry Classification System

² Maximum Achievable Control Technology

B. What should I consider as I prepare my comments for the EPA?

Submitting Confidential Business Information. Do not submit information containing CBI to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD ROM or disk that does not contain CBI, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA-HQ-OAR-2011-0344.

Docket. The docket number for this action is Docket ID Number EPA-HQ-OAR-2011-0344.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this action will be posted on the WWW through the Technology Transfer Network Web site (TTN Web). Following signature, the EPA will post a copy of this action on the TTN's policy and guidance page at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

C. What is the background for the proposed amendments?

On January 5, 2012 (77 FR 556), the EPA issued final amendments to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) from Secondary Lead Smelting. The EPA has subsequently determined, following discussions with affected parties, that the final rule warrants clarification in four areas.

The EPA inadvertently removed from 40 CFR part 63, subpart X the requirement for facilities constructed or reconstructed on or before May 19, 2011, to comply with the previous version of the NESHAP between promulgation of the January 5, 2012, amendments and the subsequent compliance date for existing sources, which is January 6, 2014. Since existing sources remain subject to the pre-existing standards until the compliance date for the January 2012 standards, the EPA is amending the rule to restore the deleted language.

The EPA received petitions for reconsideration of the final rule from the secondary lead smelting industry. One issue raised in the

petitions relates to the table of dioxin and furan congeners contained in the regulatory text (Table 3 to Subpart X of Part 63 - Toxic Equivalency Factors). This table included incorrect values for some dioxin toxic equivalency factors (TEF) and omitted some congeners. The EPA intended to use the 2005 World Health Organization (WHO) TEF in Table 3 to subpart X of part 63. See 76 FR 29051, "The TEQ emissions will be calculated using the toxic equivalency factors (TEF) outlined by the World Health Organization (WHO) in 2005 (available at Web site: <http://www.epa.gov/raf/hhtefguidance/>)."

Industry petitioners expressed concern that the agency changed one aspect of the emission standard for total hydrocarbons (THC) between proposing and finalizing the RTR amendments for secondary lead smelters. In the 2011 proposed rule, the total hydrocarbon standard for furnace charging process fugitive emissions that are not combined with furnace process emissions did not require correction to 4-percent carbon dioxide (CO₂). See 76 FR 29072, May 19, 2011. In the 2012 final rule, this standard inadvertently included correction to 4-percent CO₂. See 77 FR 582, January 5, 2012.

Finally, petitioners asked the EPA to clarify several monitoring provisions for total enclosures. Industry requested flexibility in defining the term "windward wall" when a total enclosure is not impacted by ambient wind. The regulatory text was unclear where to place monitors when ambient wind does not affect the total enclosure. Petitioners requested clarification in how to monitor irregularly shaped enclosures or enclosures that are divided into multiple areas

all under negative pressure. Petitioners also asked the EPA to clarify that data from differential pressure monitors should be used to calculate 15-minute averages. Petitioners also stated that the EPA should clarify the meaning of "accuracy" in 40 CFR 63.548(k)(3).

II. Direct Final Rule

A direct final rule that would make the same changes as those proposed in this document appears in the Rules and Regulations section of this Federal Register. The EPA is taking direct final action on these amendments because we view the amendments as noncontroversial and anticipate no significant adverse comments. The EPA has explained our reasons for the amendments in the direct final rule. If no significant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

If the EPA receives significant adverse comments, we will withdraw only those provisions on which we received those comments. The EPA will publish a timely withdrawal in the Federal Register indicating which provisions will become effective, and which provisions are being withdrawn. If part or the entire direct final rule in the Rules and Regulations section of this Federal Register is withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final rule based on these proposed amendments. The EPA will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

The changes to the regulatory text proposed in this notice are identical to those for the direct final rule published in the Rules and Regulations section of this Federal Register. For further information, including the detailed rationale for the proposal and the regulatory revisions, see the direct final rule published in a separate part of this Federal Register.

III. Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the "rules and Regulations" section of this Federal Register.

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 20, 2013.

Gina McCarthy,
Administrator.

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